

## Union Calendar No.

107<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4946

[Report No. 107-    ]

To amend the Internal Revenue Code to provide health care incentives related to long-term care.

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### IN THE HOUSE OF REPRESENTATIVES

JUNE 17, 2002

Mr. HAYWORTH (for himself, Mr. WELLER, Mr. RAMSTAD, Mr. WATKINS of Oklahoma, Mr. ENGLISH, and Mr. LEWIS of Kentucky) introduced the following bill; which was referred to the Committee on Ways and Means

JUNE       , 2002

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on June 17, 2002]

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## A BILL

To amend the Internal Revenue Code to provide health care incentives related to long-term care.

1       *Be it enacted by the Senate and House of Representa-*  
2   *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

2 (a) *SHORT TITLE.*—*This Act may be cited as the “Im-*  
3 *proving Access to Long-Term Care Act of 2002”.*

4 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*  
5 *expressly provided, whenever in this Act an amendment or*  
6 *repeal is expressed in terms of an amendment to, or repeal*  
7 *of, a section or other provision, the reference shall be consid-*  
8 *ered to be made to a section or other provision of the Inter-*  
9 *nal Revenue Code of 1986.*

10 **SEC. 2. DEDUCTION FOR PREMIUMS ON QUALIFIED LONG-**  
11 **TERM CARE INSURANCE CONTRACTS.**

12 (a) *IN GENERAL.*—*Part VII of subchapter B of chapter*  
13 *1 (relating to additional itemized deductions) is amended*  
14 *by redesignating section 223 as section 224 and by inserting*  
15 *after section 222 the following new subsection:*

16 **“SEC. 223. PREMIUMS ON QUALIFIED LONG-TERM CARE IN-**  
17 **SURANCE CONTRACTS.**

18 “(a) *IN GENERAL.*—*In the case of an individual, there*  
19 *shall be allowed as a deduction an amount equal to the ap-*  
20 *plicable percentage of eligible long-term care premiums (as*  
21 *defined in section 213(d)(10)) paid during the taxable year*  
22 *by the taxpayer for coverage for the taxpayer and the spouse*  
23 *and dependents of the taxpayer.*

24 “(b) *APPLICABLE PERCENTAGE.*—*For purposes of sub-*  
25 *section (a), the applicable percentage shall be determined*  
26 *in accordance with the following table:*



<b><i>“For taxable years beginning in calendar year—</i></b>	<b><i>The applicable percentage is—</i></b>
<i>2003, 2004, and 2005 .....</i>	<i>25</i>
<i>2006 and 2007 .....</i>	<i>30</i>
<i>2008 and 2009 .....</i>	<i>35</i>
<i>2010 and 2011 .....</i>	<i>40</i>
<i>2012 and thereafter .....</i>	<i>50.</i>

1       “(c) *LIMITATION BASED ON MODIFIED ADJUSTED*  
2 *GROSS INCOME.—*

3               “(1) *IN GENERAL.—If the modified adjusted*  
4 *gross income of the taxpayer for the taxable year ex-*  
5 *ceeds \$20,000 (twice the preceding dollar amount, as*  
6 *adjusted under paragraph (2), in the case of a joint*  
7 *return) the amount which would (but for this sub-*  
8 *section) be allowed as a deduction under subsection*  
9 *(a) shall be reduced (but not below zero) by the*  
10 *amount which bears the same ratio to the amount*  
11 *which would be so allowed as such excess bears to*  
12 *\$20,000 (\$40,000 in the case of a joint return).*

13               “(2) *ADJUSTMENTS FOR INFLATION.—*

14               “(A) *IN GENERAL.—In the case of a taxable*  
15 *year beginning after December 31, 2003, the first*  
16 *\$20,000 amount contained in paragraph (1)*  
17 *shall be increased by an amount equal to—*

18                       “(i) *such dollar amount, multiplied by*  
19                       “(ii) *the cost-of-living adjustment de-*  
20 *termined under section 1(f)(3) for the cal-*  
21 *endar year in which the taxable year be-*  
22 *gins, determined by substituting ‘calendar*



1                   year 2002’ for ‘calendar year 1992’ in sub-  
2                   paragraph (B) thereof.

3                   “(B) *ROUNDING.*—If any amount as ad-  
4                   justed under subparagraph (A) is not a multiple  
5                   of \$1,000, such amount shall be rounded to the  
6                   nearest multiple of \$1,000 (or if such amount is  
7                   a multiple of \$500, such amount shall be round-  
8                   ed to the next highest multiple of \$500).

9                   “(3) *MODIFIED ADJUSTED GROSS INCOME.*—For  
10                  purposes of paragraph (1), the term ‘modified ad-  
11                  justed gross income’ means adjusted gross income  
12                  determined—

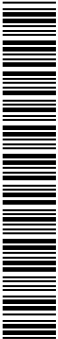
13                         “(A) without regard to this section and sec-  
14                         tions 911, 931, and 933, and

15                         “(B) after application of sections 86, 135,  
16                         137, 219, 221, 222, and 469.

17                  “(d) *LIMITATION BASED ON SUBSIDIZED COV-*  
18                  *ERAGE.*—

19                         “(1) *IN GENERAL.*—Subsection (a) shall not  
20                         apply to premiums paid for coverage of any indi-  
21                         vidual for any calendar month if—

22                         “(A) for such month such individual is cov-  
23                         ered by any insurance which is advertised, mar-  
24                         keted, or offered as long-term care insurance  
25                         under any health plan maintained by any em-



1           *ployer of the taxpayer or of the taxpayer's*  
2           *spouse, and*

3           “(B) 50 percent or more of the cost of any  
4           *such coverage (determined under section 4980B)*  
5           *for such month is paid or incurred by the em-*  
6           *ployer.*

7           “(2) *PLANS MAINTAINED BY CERTAIN EMPLOY-*  
8           *ERS.—A health plan which is not otherwise described*  
9           *in paragraph (1)(A) shall be treated as described in*  
10          *such paragraph if such plan would be so described if*  
11          *all health plans of persons treated as a single em-*  
12          *ployer under subsection (b), (c), (m), or (o) of section*  
13          *414 were treated as one health plan.*

14          “(e) *COORDINATION WITH OTHER DEDUCTIONS.—Any*  
15          *amount taken into account under subsection (a) shall not*  
16          *be taken into account in computing the amount allowable*  
17          *as a deduction under section 162(l) or 213(a).*

18          “(f) *MARRIED COUPLES MUST FILE JOINT RETURN.—*

19                 “(1) *IN GENERAL.—If the taxpayer is married at*  
20                 *the close of the taxable year, the deduction shall be al-*  
21                 *lowed under subsection (a) only if the taxpayer and*  
22                 *the taxpayer's spouse file a joint return for the tax-*  
23                 *able year.*



1           “(2) *MARITAL STATUS.*—*For purposes of para-*  
2           *graph (1), marital status shall be determined in ac-*  
3           *cordance with section 7703.*

4           “(g) *REGULATIONS.*—*The Secretary shall prescribe*  
5           *such regulations as may be appropriate to carry out this*  
6           *section, including regulations requiring employers to report*  
7           *to their employees and the Secretary such information as*  
8           *the Secretary determines to be appropriate.”.*

9           (b) *DEDUCTION ALLOWED WHETHER OR NOT TAX-*  
10          *PAYER ITEMIZES.*—*Subsection (a) of section 62 is amended*  
11          *by inserting after paragraph (18) the following new item:*

12                 “(19) *PREMIUMS ON QUALIFIED LONG-TERM*  
13                 *CARE INSURANCE CONTRACTS.*—*The deduction al-*  
14                 *lowed by section 223.”.*

15          (c) *CONFORMING AMENDMENTS.*—

16                 (1)     *Sections 86(b)(2)(A), 135(c)(4)(A),*  
17                 *137(b)(3)(A), 219(g)(3)(A)(ii), and 221(b)(2)(C)(i)*  
18                 *are each amended by inserting “223,” after “222,”.*

19                 (2)     *Section 222(b)(2)(C)(i) is amended by insert-*  
20                 *ing “223,” before “911”.*

21                 (3)     *Section 469(i)(3)(F)(iii) is amended by strik-*  
22                 *ing “and 222” and inserting “222, and 223”.*

23          (d) *CLERICAL AMENDMENT.*—*The table of sections for*  
24          *part VII of subchapter B of chapter 1 is amended by strik-*  
25          *ing the last item and inserting the following new items:*



“Sec. 223. Premiums on qualified long-term care insurance contracts.  
“Sec. 224. Cross reference.”.

1 (e) *EFFECTIVE DATE.*—The amendments made by this  
2 section shall apply to taxable years beginning after Decem-  
3 ber 31, 2002.

4 **SEC. 3. ADDITIONAL PERSONAL EXEMPTION FOR DEPEND-**  
5 **ENTS WITH LONG-TERM CARE NEEDS IN TAX-**  
6 **PAYER’S HOME.**

7 (a) *IN GENERAL.*—Section 151 (relating to allowance  
8 of deductions for personal exemptions) is amended by redes-  
9 ignating subsections (d) and (e) as subsections (e) and (f),  
10 respectively, and by inserting after subsection (c) the fol-  
11 lowing new subsection:

12 “(d) *ADDITIONAL EXEMPTION FOR DEPENDENTS*  
13 *WITH LONG-TERM CARE NEEDS IN TAXPAYER’S HOME.*—

14 “(1) *IN GENERAL.*—Except as provided in para-  
15 graph (2), an exemption of the exemption amount for  
16 each qualified family member of the taxpayer.

17 “(2) *PHASE-IN.*—In the case of taxable years be-  
18 ginning in calendar years before 2012, the amount of  
19 the exemption provided under paragraph (1) shall not  
20 exceed the applicable limitation amount determined  
21 in accordance with the following table:

<b>“For taxable years beginning in calendar year—</b>	<b>The applicable limitation amount is—</b>
2003 and 2004 .....	\$500
2005 and 2006 .....	1,000
2007 and 2008 .....	1,500



***“For taxable years beginning  
in calendar year—******The applicable  
limitation amount is—***

<i>2009 and 2010 .....</i>	<i>2,000</i>
<i>2011 .....</i>	<i>2,500.</i>

1           “(3) *QUALIFIED FAMILY MEMBER.*—*For purposes*  
2           *of this subsection, the term ‘qualified family member’*  
3           *means, with respect to any taxable year, any*  
4           *individual—*

5                     “(A) *who is—*

6                             “(i) *the spouse of the taxpayer, or*

7                             “(ii) *a dependent of the taxpayer with*  
8                             *respect to whom the taxpayer is entitled to*  
9                             *an exemption under subsection (c),*

10                   “(B) *who is an individual with long-term*  
11                   *care needs during any portion of the taxable*  
12                   *year, and*

13                   “(C) *other than an individual described in*  
14                   *section 152(a)(9), who, for more than half of*  
15                   *such year, has as such individual’s principal*  
16                   *place of abode the home of the taxpayer and is*  
17                   *a member of the taxpayer’s household.*

18                   “(4) *INDIVIDUALS WITH LONG-TERM CARE*  
19                   *NEEDS.*—*For purposes of this subsection, the term ‘in-*  
20                   *dividual with long-term care needs’ means, with re-*  
21                   *spect to any taxable year, an individual who has been*  
22                   *certified, during the 39½-month period ending on the*  
23                   *due date (without extensions) for filing the return of*





1       *tax for the taxable year (or such other period as the*  
2       *Secretary prescribes), by a physician (as defined in*  
3       *section 1861(r)(1) of the Social Security Act) as*  
4       *being, for a period which is at least 180 consecutive*  
5       *days—*

6               “(A) *an individual who is unable to per-*  
7               *form (without substantial assistance from an-*  
8               *other individual) at least 2 activities of daily*  
9               *living (as defined in section 7702B(c)(2)(B)) due*  
10              *to a loss of functional capacity, or*

11              “(B) *an individual who requires substantial*  
12              *supervision to protect such individual from*  
13              *threats to health and safety due to severe cog-*  
14              *nitive impairment and is unable to perform,*  
15              *without reminding or cuing assistance, at least*  
16              *1 activity of daily living (as so defined) or to the*  
17              *extent provided in regulations prescribed by the*  
18              *Secretary (in consultation with the Secretary of*  
19              *Health and Human Services), is unable to en-*  
20              *gage in age appropriate activities.*

21              “(5) *IDENTIFICATION REQUIREMENT.—No ex-*  
22              *emption shall be allowed under this subsection to a*  
23              *taxpayer with respect to any qualified family member*  
24              *unless the taxpayer includes, on the return of tax for*  
25              *the taxable year, the name and taxpayer identifica-*



1        *tion of the physician certifying such member. In the*  
2        *case of a failure to provide the information required*  
3        *under the preceding sentence, the preceding sentence*  
4        *shall not apply if it is shown that the taxpayer exer-*  
5        *cised due diligence in attempting to provide the infor-*  
6        *mation so required.*

7                *“(6) SPECIAL RULES.—Rules similar to the rules*  
8        *of paragraphs (2), (3), and (4) of section 21(e) shall*  
9        *apply for purposes of this subsection.”.*

10        *(b) CONFORMING AMENDMENTS.—*

11                *(1) Section 1(f)(6)(A) is amended by striking*  
12        *“151(d)(4)” and inserting “151(e)(4)”.*

13                *(2) Section 1(f)(6)(B) is amended by striking*  
14        *“151(d)(4)(A)” and inserting “151(e)(4)(A)”.*

15                *(3) Section 3402(f)(1)(A) is amended by striking*  
16        *“151(d)(2)” and inserting “151(e)(2)”.*

17                *(4) Section 3402(r)(2)(B) is amended by striking*  
18        *“151(d)” and inserting “151(e)”.*

19                *(5) Section 6012(a)(1)(D)(ii) is amended—*

20                        *(A) by striking “151(d)” and inserting*  
21        *“151(e)”, and*

22                        *(B) by striking “151(d)(2)” and inserting*  
23        *“151(e)(2)”.*

24                *(6) Section 6013(b)(3)(A) is amended by striking*  
25        *“151(d)” and inserting “151(e)”.*



1       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall apply to taxable years beginning after Decem-*  
3 *ber 31, 2002.*

4 **SEC. 4. EXPANSION OF HUMAN CLINICAL TRIALS QUALI-**  
5 **FYING FOR ORPHAN DRUG CREDIT.**

6       (a) *IN GENERAL.*—*Paragraph (2) of section 45C(b) of*  
7 *the Internal Revenue Code of 1986 is amended by adding*  
8 *at the end the following new subparagraph:*

9               “(C) *TREATMENT OF CERTAIN EXPENSES*  
10 *INCURRED BEFORE DESIGNATION.*—*For purposes*  
11 *of subparagraph (A)(ii)(I), if a drug is des-*  
12 *ignated under section 526 of the Federal Food,*  
13 *Drug, and Cosmetic Act not later than the due*  
14 *date (including extensions) for filing the return*  
15 *of tax under this subtitle for the taxable year in*  
16 *which the application for such designation of*  
17 *such drug was filed, such drug shall be treated*  
18 *as having been designated on the date that such*  
19 *application was filed.”.*

20       (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
21 *section (a) shall apply to expenses incurred after the date*  
22 *of the enactment of this Act.*

23 **SEC. 5. VACCINE TAX TO APPLY TO HEPATITIS A VACCINE.**

24       (a) *IN GENERAL.*—*Paragraph (1) of section 4132(a)*  
25 *(defining taxable vaccine) is amended by redesignating sub-*



1 paragraphs (I), (J), (K), and (L) as subparagraphs (J),  
2 (K), (L), and (M), respectively, and by inserting after sub-  
3 paragraph (H) the following new subparagraph:

4 “(I) Any vaccine against hepatitis A.”

5 (b) *EFFECTIVE DATE.*—

6 (1) *SALES, ETC.*—The amendments made by sub-  
7 section (a) shall apply to sales and uses on or after  
8 the first day of the first month which begins more  
9 than 4 weeks after the date of the enactment of this  
10 Act.

11 (2) *DELIVERIES.*—For purposes of paragraph  
12 (1) and section 4131 of the Internal Revenue Code of  
13 1986, in the case of sales on or before the effective date  
14 described in such paragraph for which delivery is  
15 made after such date, the delivery date shall be con-  
16 sidered the sale date.

17 **SEC. 6. ADJUSTMENT OF EMPLOYER CONTRIBUTIONS TO**  
18 **COMBINED BENEFIT FUND TO REFLECT**  
19 **MEDICARE PRESCRIPTION DRUG SUBSIDY**  
20 **PAYMENTS.**

21 (a) *IN GENERAL.*—Section 9704(b) of the Internal  
22 Revenue Code of 1986 (relating to health benefit premium)  
23 is amended by adding at the end the following new para-  
24 graph:



1           “(4) *ADJUSTMENTS FOR MEDICARE PRESCRIP-*  
2           *TION DRUG SUBSIDIES.*—*The trustees of the Combined*  
3           *Fund shall decrease the per beneficiary premium for*  
4           *each plan year in which a subsidy payment is pro-*  
5           *vided to it under section 1860H of the Social Security*  
6           *Act by the amount which would place the Combined*  
7           *Fund in the same financial position as if such sub-*  
8           *sidy payment had not been received.”.*

9           (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
10          *section (a) shall apply to plan years beginning after the*  
11          *date of the enactment of the Medicare Modernization and*  
12          *Prescription Drug Act of 2002.*

13       **SEC. 7. ELIGIBILITY FOR ARCHER MSA’S EXTENDED TO AC-**  
14                       **COUNT HOLDERS OF MEDICARE+CHOICE**  
15                       **MSA’S.**

16          (a) *IN GENERAL.*—*Subparagraph (B) of section*  
17          *220(c)(2) of the Internal Revenue Code of 1986 is amended*  
18          *by adding at the end the following new clause:*

19                       “(iii) *MEDICARE+CHOICE MSA’S.*—*In*  
20                       *the case of an individual who is covered*  
21                       *under an MSA plan (as defined in section*  
22                       *1859(b)(3) of the Social Security Act) which*  
23                       *such individual elected under section*  
24                       *1851(a)(2)(B) of such Act—*



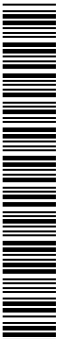
1           “(I) such plan shall be treated as  
2           a high deductible health plan for pur-  
3           poses of this section,

4           “(II) subsection (b)(2)(A) shall be  
5           applied by substituting ‘100 percent’  
6           for ‘65 percent’ with respect to such in-  
7           dividual,

8           “(III) with respect to such indi-  
9           vidual, the limitation under subsection  
10          (d)(1)(A)(ii) shall be 100 percent of the  
11          highest annual deductible limitation  
12          under section 1859(b)(3)(B) of the So-  
13          cial Security Act,

14          “(IV) paragraphs (4), (5), and (7)  
15          of subsection (b) and paragraph  
16          (1)(A)(iii) of this subsection shall not  
17          apply with respect to such individual,  
18          and

19          “(V) the limitation which would  
20          (but for this subclause) apply under  
21          subsection (b)(1) with respect to such  
22          individual for any taxable year shall  
23          be reduced (but not below zero) by the  
24          amount which would (but for sub-  
25          section 106(b)) be includible in such



1                    *individual's gross income for the tax-*  
2                    *able year."*.

3            (b) *EFFECTIVE DATE.*—*The amendment made by sub-*  
4 *section (a) shall apply to taxable years beginning after De-*  
5 *cember 31, 2002.*

